



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-967]

Certain Document Cameras and Software for Use Therewith;

Commission's Determination Not to Review

An Initial Determination Terminating Recordex USA, Inc.; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 19) terminating Recordex USA, Inc. The Commission requests written submissions, under the schedule set forth below, on remedy, public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 24, 2015, based on a complaint filed on behalf of Pathway Innovations & Technologies, Inc. of San Diego, California (“Complainant”). 80 FR 57642 (September 24, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain document cameras and software for use therewith by reason of infringement of certain claims of U.S. Design Patent No. D647,906; U.S. Design Patent No. D674,389; U.S. Design Patent No. D715,300; and U.S. Patent No. 8,508,751. The Commission’s notice of investigation named the following respondents: Recordex USA, Inc., of Long Island City, New York (“Recordex”); QOMO HiteVision, LLC, of Wixom, Michigan (“QOMO”); and Adesso, Inc. of Walnut, California (“Adesso”). The Office of Unfair Import Investigations was named as a party but has subsequently withdrawn from the investigation. Adesso was terminated based on a consent order stipulation and consent order. Order No. 5 (unreviewed) (Nov. 23, 2015). QOMO was found to be in default. Order No. 10 (unreviewed) (Dec. 7, 2015). Recordex is the last remaining respondent in this investigation.

On April 11, 2016, Complainant and Recordex filed a joint motion to terminate the investigation as to Recordex based on a settlement agreement. Complainant and Recordex stated that other than the settlement agreement, “[t]here are no other agreements, written or oral, express or implied between the moving parties concerning the subject matter of the investigation.”

On April 20, 2016, the ALJ granted the joint motion. The ID agreed with Complainant and Recordex that termination of the investigation as to Recordex will not negatively impact the

public interest. ID at 2. The parties provided public and confidential versions of the settlement agreement.

The Commission has determined not to review the subject ID.

As noted above, QOMO was previously found to be in default. Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue. Complainant seeks a limited exclusion order and a cease and desist order.

In connection with the final disposition of this investigation, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by the defaulting respondent; and/or (2) issue a cease and desist order that could result in the defaulting respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors that the Commission will consider include the effect that the exclusion order and/or cease and desists orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are

like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant is also requested to state the date that the asserted patents expire and the HTSUS numbers under which the accused products are imported. Complainant is further requested to supply the names of known importers of the products at issue in this investigation.

The written submissions and proposed remedial orders must be filed no later than close of business on May 23, 2016. Reply submissions must be filed no later than the close of business on May 31, 2016. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by

noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-967") in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 13, 2016.

Lisa R. Barton,
Secretary to the Commission.

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